

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

SPECIAL NEEDS PATIENTS

**IHSC Directive: 03-11
ERO Directive Number: 11745.2
Federal Enterprise Architecture Number: 306-112-002b
Effective: 24 Mar 2016**

**By Order of the Acting Assistant Director
Dr. Stewart D. Smith, DHSc/s/**

- 1. PURPOSE:** The purpose of this issuance is to set forth the policies and procedures for determining and providing care for U.S. Immigration and Customs Enforcement (ICE) detainees determined to have special needs who are housed in ICE-owned or contracted detention facilities staffed by ICE Health Service Corps (IHSC) personnel.
- 2. APPLICABILITY:** This directive applies to all IHSC personnel, including but not limited to, Public Health Service (PHS) officers, civil service employees and contract personnel. It is applicable to IHSC personnel supporting health care operations in ICE-owned or contracted detention facilities, and to IHSC Headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. Federal contractors are responsible for the management and discipline of their employees supporting IHSC.
- 3. AUTHORITIES AND REFERENCES:**
 - 3-1.** Title 8, Code of Federal Regulations, Section 235.3 ([8 CFR § 235.3](#)), Inadmissible Aliens and Expedited Removal;
 - 3-2** Section 232 of the Immigration and Nationality Act, as amended, Title 8, U.S. Code, Section 1222 ([8 U.S.C. § 1222](#)), Detention of Aliens for Physical and Mental Examination;
 - 3-3.** Title 8, Code of Federal Regulations, Part 232 ([8 CFR 232](#)), Detention of Aliens for Physical and Mental Examination;
 - 3-4.** Section 322 of the Public Health Service Act, as amended, Title 42 U.S. Code, Section 249(a) ([42 U.S.C. § 249\(a\)](#)), Medical Care and Treatment of Quarantined and Detained Persons; and

3-5. Title 42, U.S. Code, Section 252 ([42 U.S.C. § 252](#)), Medical Examination of Aliens.

- 4. POLICY:** IHSC has a proactive program that provides care for special needs patients who require close medical supervision or multidisciplinary care. Health care providers will perform an evaluation on any detained individual who requests an evaluation for, or who is suspected of having, a special need. If the provider identifies a detainee or resident as having a special need, the provider will address any medically necessary accommodation(s) that are indicated through the eCW Special Needs Smart Form, or IHSC approved paper equivalent, and, if indicated, on the IHSC 834, Medical/Psychiatric Alert and Global Alert. The clinic also maintains a list of special needs patients.

4-1. Special Need Definition. For the purpose of this document, special need is a term used for detainees/residents (hereafter referred to as "detainees") whose physical and/or mental condition requires different accommodations or arrangements than that provided for other detainees in the same facility. Detainees with special needs include, but are not limited to, those who are in an acute emotional crisis, demonstrate maladaptive behaviors, developmentally disabled, mentally ill, physically disabled, chronically ill, acutely ill, or chemically dependent.

4-2. Identification of a Detainee with Special Needs. Detainees with special needs are generally identified by the IHSC health care providers during the intake screening process and/or health assessment. Identification may also occur during any health services encounter. Certain prescribed situations and/or preexisting conditions increase the likelihood that an individual may have special needs. Such situations and/or preexisting conditions include, but are not limited to:

- a. Detainees with developmental disabilities;
- b. Detainees who are frail;
- c. Detainees who are elderly;
- d. Detainees with physical disabilities that affect mobility or activities of daily living;
- e. Detainees with serious mental illness (e.g., self-mutilation, aggressive behaviors, psychotic disorders, post-traumatic stress disorders, and suicidal ideation or actions);

- f. Detainees with chronic medical problems (e.g., diabetes, hypertension, seizures, and asthma);
- g. Detainees who are pregnant;
- h. Detainees who are placed in segregation;
- i. Detainees who are placed in medical isolation (i.e., medical housing unit);
- j. Detainees who are placed on medical or mental health observation;
- k. Detainees requiring directly observed therapy;
- l. Detainees requiring long-term care (i.e., terminal illness);
- m. Detainees who have experienced recent surgeries or trauma;
- n. Detainees with communication barriers (i.e., deaf or mute);
- o. Detainees with visual impairments;
- p. Detainees with suspected tuberculosis;
- q. Detainees with communicable diseases;
- r. Detainees with substance abuse and dependence;
- s. Detainees with feeding tubes and special venous access lines;
- t. Detainees on dialysis;
- u. Detainees who are suspected victims of physical or sexual violence; and
- v. Detainees needing colostomy care.

4-3. Accommodations for special needs detainees may include, but are not limited to, the following:

- a. Therapeutic diet;
- b. Durable equipment;
- c. Special housing considerations;

- d. Treatments;
- e. Infectious disease precautions;
- f. Restricted activity/bed rest;
- g. Direct Observed Therapy (DOT);
- h. Frequent medical observations;
- i. Special accommodations during emergencies;
- j. Vocational/work modifications; and
- k. Fall precautions.

4-4. Documentation and Communication of Special Needs. IHSC health care providers will document all detainee special needs clearly within the detainee's electronic health record (eHR) and notify the Clinical Director (CD) and ICE custody staff, as appropriate. The health care provider will also list the special needs on the master problem list.

- a. Health care providers will record all special needs in the eHR. The documentation of special needs is included in the patient encounter, on the Special Needs Smart Form and, if indicated, in the Global Alert and on the Medical/Psychiatric Alert Form or electronic equivalent. Health records confirm that detainees receive prescribed aids to impairment. Special needs are listed on the problem list. When a health care provider identifies a detainee with a special health need, the health care provider will develop an individual treatment plan that includes
 - (1) Frequency of follow-up for medical evaluation and adjustment of treatment modality;
 - (2) The type and frequency of diagnostic testing and therapeutic regimens; and
 - (3) When appropriate, instructions about diet, exercise, adaptation to the environment, and medication.
- b. Medical providers will review and update, if needed, special needs as necessary, but at least every 90 days. Nutritional and therapeutic diets will be prescribed for a maximum of 90 days and must be reviewed, revised or renewed at least every 90 days. Medical diets to address food allergies may be written for the term of the individual's detention.

- c. IHSC health staff will notify the Field Office Director (FOD), or designee, the CD, or designee, of detainees with any special needs that would affect the following: 1) housing assignments; 2) program assignments; 3) disciplinary measures; or 4) transfers to other facilities. Special needs of this nature are documented in the eHR in the Global Alert and on the Medical/Psychiatric Alert Form. IHSC health staff will notify the FOD and CD via electronic communication using the Medical/Psychiatric Alert Form.
- d. Where the use of specific aids to impairment is contraindicated for security reasons, alternatives are considered so the health needs of the detainee are met.
- e. IHSC staff will maintain a master list of detainees with special needs at each facility. This master list can be accessed via the "Active Special Needs" and "Chronic Care" Enterprise Business Optimizer eBO reports. The health services administrator (HSA) and CD will review the list weekly to determine if those identified with significant special needs meet the criteria for inclusion on the IHSC Significant Detainee Illness (SDI) list, IHSC Significant Mental Health Illness (SMI) list and/or IHSC Segregation Spreadsheet.

4-5. Transfers/Releases. IHSC health staff will perform a suitability assessment based on a review of the detainee's health record for detainees scheduled for transfer or release. IHSC health staff must notify the CD, or designee, when a transferee has special needs that pose safety and/or continuity of care issues if transferred without special considerations, arrangements and/or accommodations. For planned discharges, health staff will:

- a. Arrange for an appropriate supply of current medications:
 - 1. Upon transfer to another facility, the medical provider shall ensure that at least 7 day (or, in the case of TB medications, 15 day and in the case of HIV/AIDS medications, 30 day) supply of medication shall accompany the detainee as ordered by the prescribing authority.
 - 2. Upon release from ICE custody, the detainee shall receive up to a 30 day supply of medication as ordered by the prescribing authority.
- b. For detainees with serious medical or mental health needs, make arrangements or referrals for follow-up services with community clinicians, including exchange of clinically relevant information.

5. **PROCEDURES:** No additional procedures.
6. **HISTORICAL NOTES:** This document replaces directive 03-11 Special Needs Patients, dated 25 Sep 2015. It adds information to the policy statement (4), 4-2, 4-4, and 4-5. It also adds definitions.

7. **DEFINITIONS:**

Clinic – The clinic is the physical area in the facility and organizational unit set-aside for routine health care and sick call. The clinic is the designated part of the facility for the delivery of care to detainees on an ambulatory or observation basis. (IHSC Operational Definition)

Clinical Director (CD) – The Clinical Director is a physician and is the clinical medical authority at a specific facility. Duties include clinically supervising the Staff Physician (if applicable) and mid-level providers, evaluating patient care through an ongoing quality assurance program, providing training and mentoring to health care staff, and evaluating and treating medically complex patients. The CD is board certified in family medicine, internal medicine, or related primary care specialty to maintain employment. (IHSC Operational Definition)

Custody Staff or Officers – Custody staff are all security staff members who serve in a custody role (could be ICE, other federal or state, or contracted officers at Service Processing Centers, Contract Detention Facilities, or Intergovernmental Service Agreement facilities). (IHSC Operational Definition)

Field Office Director (FOD) – The Field Office Director is the ICE ERO officer with chief field responsibility for ERO functions, including the operation of detention facilities, in his or her assigned geographic area. (IHSC Operational Definition)

Health Care Personnel or Providers – Health care personnel or providers are credentialed individuals employed, detailed, or authorized by IHSC to deliver health care services to detainees. It includes federal and contract staff assigned or detailed (i.e. temporary duty) who provide professional or paraprofessional health care services as part of their IHSC duties. (IHSC Operational Definition)

Health Staff – Health staff includes all health care professionals (including contracted staff) as well as administrative and supervisory staff at *IHSC staffed medical clinics*. (IHSC Operational Definition)

Special Needs Detainees – A detainee whose mental and/or physical condition requires different accommodations or arrangements than a general population detainee would receive. Special needs detainees include but are not limited to those who are emotionally disturbed, developmentally disabled, mentally ill,

physically handicapped, chronically ill, disabled, or infirm and the drug and alcohol addicted. (PBNDS 2011 Glossary)

8. APPLICABLE STANDARDS:

8-1. Performance-Based National Detention Standards (PBNDS):

PBNDS 2011:

4.3 Medical Care.

4.6 Significant Self-harm and Suicide Prevention and Intervention.

4.7 Terminal Illness, Advanced Directives and Death.

8-2. Family Residential Standards (FRS):

4.3 Medical Care.

4.5 Significant Self-harm and Suicide Prevention and Intervention.

4.6 Terminal Illness, Advanced Directives and Death.

8-3. American Correctional Association (ACA):

Performance-Based Standards for Adult Local Detention Facilities, 4th edition:

4-ALDF-4C-40 Special Needs Inmates.

Standards for Adult Correctional Institutions, 4th edition:

4-4399 Special Needs.

Performance-Based Standards for Correctional Health Care in Adult Correctional Institutions:

1-HC-3A-06 Special Needs.

8-4. National Commission on Correctional Health Care (NCCHC):

Standards for Health Services in Jails, 2014:

J-A-08 Communication on Patients' Health Needs.

J-E-13 *Discharge Planning.*

J-G-01 *Chronic Disease Services.*

J-G-02 *Patients with Special Health Needs.*

9. **PRIVACY AND RECORDKEEPING.** IHSC maintains detainee health records in accordance with the Privacy Act and as provided in the DHS/ICE-013 Alien Health Records System of Records Notice, 80 Federal Register 239 (Jan. 5, 2015). The records in the eHR/eClinicalWorks (eCW) are destroyed ten (10) years from the date the detainee leaves ICE custody. Retention periods for records of minors may differ. Paper records are scanned into the eHR and destroyed after upload is complete.

Protection of Medical Records and Sensitive Personally Identifiable Information (PII).

- 9-1. Staff must keep all medical records, whether electronic or paper, secure with access limited only to those with a need to know. Staff will lock paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.
- 9-2. Staff is trained at orientation and annually on the protection of a patient's medical information and Sensitive PII.
- 9-3. Only authorized individuals with a need to know are permitted to access medical records and Sensitive PII.
- 9-4. Staff will reference the Department of Homeland Security *Handbook for Safeguarding Sensitive PII* (Handbook) at:
(b)(7)(E)
when additional information is needed concerning safeguarding sensitive PII.
10. **NO PRIVATE RIGHT STATEMENT.** This directive is an internal policy statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.